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THIS IS NOT A DISCIPLINARY
ACTION OR FINAL DECISION
OF THE BOARD

7
8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10
11 In the Matter of the Statement of Issues
Against:

Case No. SI-2010-31

12 **JERRY L. BURDICK**

STATEMENT TO RESPONDENT

13
14 Respondent. [Gov. Code §§ 11504, 11505, subd. (b)]

15
16
17 TO RESPONDENT:

18 Enclosed is a copy of the Statement of Issues that has been filed with the California Board
19 of Accountancy of the Department of Consumer Affairs, (Board), Respondent/Applicant's Notice
20 of Designation of Counsel (2 copies); Respondent/Applicant's Notice of Withdrawal of Request
21 for Hearing (2 copies); Request for Discovery; and Discovery Statutes, all of which are hereby
22 served on you.

23 ADMINISTRATIVE HEARING

24 In accordance with Business and Professions Code section 485, subdivision (b), you filed a
25 written request for a hearing after the Board notified you that your application for licensure was
26 denied. A hearing will be held upon the charges made in the Statement of Issues at the time and
27 place set forth in the Notice of Hearing unless you notify the Board that you do not want a
28 hearing on the denial of your Applicant for Certified Public Accountant Certificate application. In

1 Prior License History

2 3. On or about August 7, 1965, the Board issued Certified Public Accountant Certificate
3 No. 11795 to Jerry L. Burdick. In March 1989, the certificate was in a renewed status without
4 continuing education ("inactive") and remained in that status through June 30, 1989.¹

5 4. Between July 1, 1989 and July 21, 1989, the certificate was expired and not valid
6 because the renewal fee was not paid, and the declaration of compliance with continuing
7 education requirements was not submitted.

8 5. On or about July 22, 1989, the certificate was renewed through June 30, 1991, with
9 the renewal fee, but without compliance with continuing education requirements ("inactive").

10 6. On or about July 1, 1991, the certificate was renewed through June 30, 1993, but
11 without compliance with continuing education requirements ("inactive").

12 7. On or about July 1, 1993, the certificate was renewed through June 30, 1995, but
13 without compliance with continuing education requirements ("inactive").

14 8. During the period July 1, 1995 through September 20, 1996, the certificate was
15 expired and not valid because the renewal fee was not paid, and the declaration of compliance
16 with continuing education requirements was not submitted.

17 9. Effective August 3, 1995, the certificate was renewed through June 30, 1997, upon
18 receipt of the renewal fee; however, without compliance with continuing education requirements
19 ("Inactive").

20 10. During the periods July 1, 1997 through June 30, 1999, July 1, 1999 through June 30,
21 2001, and July 1, 2001 through June 30, 2002, the certificate was expired and not valid because
22 the renewal fee was not paid, and the declaration of compliance with continuing education
23 requirements was not submitted.

24 11. Effective July 1, 2002, the certificate was cancelled for failure to renew the certificate
25 within five (5) years.

26 _____
27 ¹ The CBA's licensing records were transferred to the Department of Consumer Affairs'
28 centralized computer system in March 1989. As a result, the underlying documentation related to
 license history prior to that date is unavailable.

JURISDICTION

12. This Statement of Issues is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

13. Section 475 of the Code states:

"(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

.....
(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license. . ."

14. Section 480 states, in pertinent part:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

.....
(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or ..

(3)(A) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made. . ."

15. Section 482 of the Code states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

1 Each board shall take into account all competent evidence of rehabilitation furnished by the
2 applicant or licensee."

3 16. Section 5110 of the Code states, in pertinent part:

4 "(a) After notice and an opportunity for a hearing, the board may deny . . . an application for
5 a license or registration to any individual who has committed any of the following acts:

6
7 (4) Any act that if committed by an applicant for licensure would be grounds for
8 denial of a license or registration under Section 480 or if committed by a licensee or a registrant
9 would be grounds for discipline under Section 5100."

10 **REGULATORY PROVISIONS**

11 17. California Code of Regulations, title 16, section 99, states, in pertinent part:

12 "For purposes of denial, suspension, or revocation of a certificate or permit pursuant to
13 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act
14 shall be considered to be substantially related to the qualifications, functions or duties of a
15 certified public accountant or public accountant if to a substantial degree it evidences present or
16 potential unfitness of a certified public accountant or public accountant to perform the functions
17 authorized by his certificate or permit in a manner consistent with the public health, safety, or
18 welfare. Such crimes or acts shall include but not be limited to those involving the following:

19 (a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind. . ."

20 18. California Code of Regulations, title 16, section 99.1, states, in pertinent part:

21 "When considering the denial of a certificate or permit under Section 480 of the Business
22 and Professions Code, . . . the board, in evaluating the rehabilitation of the applicant and his
23 present eligibility for a certificate or permit will consider the following criteria:

24 (1) Nature and severity of the act(s) or offense(s).

25 (2) Criminal record and evidence of any act(s) committed subsequent to the act(s) or
26 offense(s) under consideration which also could be considered a grounds for denial. . .

27 (3) The time that has elapsed since commission of the act(s) or offenses(s) referred to
28 in subdivision (1) or (2).

1 (4) The extent to which the applicant. . .has complied with any terms of . . .restitution
2 or any other sanctions lawfully imposed against the applicant...

3
4 (6) Evidence if any, of rehabilitation submitted by the applicant . . .”

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 ***(Act Involving Dishonesty, Fraud or Deceit)***

7 19. Respondent's application is subject to denial under sections 475(a)(3) and (4), and
8 480(a)(2), in that, Respondent committed an act involving dishonesty, fraud, or deceit with the
9 intent to substantially benefit himself or another, or substantially injure another. The
10 circumstances are as follows:

11 a. On or about August 14, 2008, a final judgment was entered against Respondent
12 in the civil action entitled SEC v. Michael F. Crowley and Jerry L. Burdick, in the United States
13 District Court for the Southern District of California, Case No. 08 CV1390 JAH JMA,
14 suspending him from appearing or practicing before the Commission as an accountant and
15 ordering him to pay \$25,000. The final judgment permanently enjoined him from future
16 violations of Section 17(a)(2) and (3) of the Securities Act of 1933 and Rules 13a-14, 13b2-1, and
17 13b2-2 of the Exchange Act, and aiding and abetting violations of Section 13(a) and 13(b)(2)A)
18 of the Exchange Act and Rules 12b-20 and 13a-13.

19 b. The circumstances behind the judgment are that between on or about August
20 1993 to May 2007, Respondent served as a director on SeraCare Lifesciences, Inc., (“SeraCare²”)
21 board. Respondent served as SeraCare’s interim chief financial officer from February 2005
22 through May 2005.

23
24
25 ² During the relevant time period, SeraCare operated as a supplier and manufacturer of
26 biological products for the biotechnology and pharmaceutical industry with its principal
27 headquarters in Oceanside, California; and its common stock was registered pursuant to Section
28 12(g) of the Exchange Act and listed on the Nasdaq National Market. From at least 2004 through
at least March 2006, SeraCare’s fiscal year ended on September 30.

1 c. In September 2004, Respondent created a general inventory reserve account in
2 connection with acquired inventory following a major acquisition. Respondent manipulated these
3 general inventory reserves in the second and third quarters of 2005, causing SeraCare's net
4 income before taxes to be inflated by approximately 20% in the second quarter and about 17% in
5 the third quarter of 2005, as reported in its Form 10-Q for the second quarter ended March 31,
6 2005 and its Form 10-Q for the third quarter ended June 30, 2005.

7 d. The misleading financial statements from SeraCare's 2005 Second Quarter
8 Form 10-Q were also included in a Form S-1 registration statement filed by SeraCare on May 11,
9 2005, in connection with the offering of three million shares of SeraCare's common stock.

10 e. Respondent, as SeraCare's interim chief financial officer, signed and certified
11 SeraCare's 2005 Second Quarter Form 10-Q and was substantially involved in the preparation
12 and filing of SeraCare's 2005 Third Quarter Form 10-Q. Respondent knew, or should have
13 known, that both filings were materially misleading.

14 f. During a 2005 audit, Respondent made, or caused to be made, material
15 misrepresentations to SeraCare's auditors. Respondent created and backdated a letter that was
16 given to the auditors as support for recognizing revenue on an almost \$1 million sale before the
17 close of the 2005 fiscal year. During the same audit, Respondent provided SeraCare's auditors
18 with an increased inventory valuation without any documented or verifiable support.

19 g. Respondent aided and abetted SeraCare's uncharged violations of Section 13(a)
20 and 13(b)(2)(A) of the Exchange Act and Rules 12b-20 and 13a-13 thereunder. Respondent also
21 violated Rules 13a-14, 13b2-1, and 13b2-2 of the Exchange Act and Section 17(a)(2) and (3) of
22 the Securities Act.

23 SECOND CAUSE FOR DENIAL OF APPLICATION

24 *(Substantially Related Act Involving Dishonesty, Fraud or Breach of Fiduciary Responsibility)*

25 20. Respondent's application is subject to denial under California Code of Regulations,
26 title 16, section 99, in that, Respondent committed an act involving dishonesty, fraud, or breach
27 of fiduciary responsibility substantially related to the qualifications, functions or duties of a
28 certified public accountant, as set forth in paragraph 19 above.

1 THIRD CAUSE FOR DENIAL OF APPLICATION

2 *(Act, If Done by Licentiate, Would be Grounds for Suspension or Revocation)*

3 21. Respondent's application is subject to denial under sections 475(a)(4), 480(a)(3)(A),
4 and 5110(a)(4), in that, Respondent committed an act, which if done by a licentiate of the
5 business or profession in question, would be grounds for suspension or revocation of license, as
6 set forth in paragraph 19 above.

7 FOURTH CAUSE FOR DENIAL OF APPLICATION

8 *(Substantially Related Act to Qualifications, Functions, or Duties of the Profession)*

9 22. Respondent's application is subject to denial under sections 480(a)(3)(B) and
10 5110(a)(4), in that, Respondent committed an act which is substantially related to the
11 qualifications, functions, or duties of the business or profession for which the application is made,
12 as set forth in paragraph 19 above.

13 FIFTH CAUSE FOR DENIAL OF APPLICATION

14 *(Suspension by SEC)*

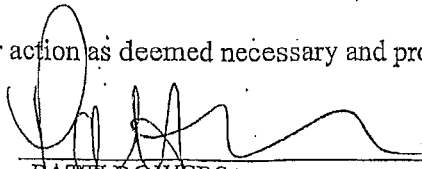
15 23. Respondent's application is subject to denial under section 5100, subdivisions (h) and
16 (l), in that, Respondent was suspended from appearing or practicing before the SEC, as set forth
17 in paragraph 19 above.

18 PRAYER

19 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the California Board of Accountancy issue a decision:

- 21 1. Denying the application of Jerry L. Burdick for Certified Public Accountant License;
22 and
23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: March 9, 2011

25 
26 PATTY BOWERS
27 Executive Officer
28 California Board of Accountancy
 Department of Consumer Affairs
 State of California
 Complainant